

**In the court of Shri Aasdeep Singh, PCS,
Civil Judge (Junior Division), Pathankot.
UID No.PB00790.**

CIS CS No. 1067 of 14.10.2025.
CNRNo.PBP02-001666-2025.
Misc., Appln., Dated: 06.03.2025.
Date of Order : 08.04.2026.

Jyoti Bhatia Versus Gurleen Kaur and Others.

(Civil Suit)

Application under Order 26 Rule 9 CPC filed by the defendants No.4 to 6 for appointment of Local Commissioner.

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Present: Shri Amandeep Singh Andotra, Advocate, counsel for applicants-defendants no. 4, 5 and 6 including defendants No.1 and 2.
 Shri Pankaj Dhiman, Advocate, counsel for respondent-plaintiff.
 Shri Sandeep Sambial, Advocate, counsel for respondents-defendants No.7 and 8.
 Respondent-defendant No.3 died.
 Respondent-defendant No.9 ex-parte vide order dated 02.12.2025.

ORDER:

1. Vide this order, the court shall dispose of an application under Order 26 Rule 9 CPC filed by applicants-defendants No.4 to 6 for appointment of local commissioner.

2. Briefly the facts of the application as averred by the applicants-defendants No.4 to 6 are that the plaintiff has purchased the land measuring 08 marlas and in the garb of the restraining order dated 14.10.2025, the plaintiff trying to encroach upon the land of the applicants-defendants no.4 to 6. So, it is very important for the proper adjudication and the just decision of the case that the disputed site is to be

inspected by the Local Commissioner to ascertain the actual and factual position of the suit property by preparing report regarding the dimensions of the constructed suit property of the plaintiff. Hence, prayed to allow the application for appointment of Local Commissioner with the direction to visit the spot and report regarding the existing factual position or dimensions of the constructed site of the plaintiff at the spot.

3. Upon notice, respondent-plaintiff has filed reply to application whereby they took the plea that the application is not maintainable as the present application has been filed only to delay the proceedings of the case. The plaintiff is lawful owner in possession of the suit property measuring 08 marlas of lad. It has been further averred that the defendants are seeking appointment of a local commissioner only to collect the evidence in their favour, which is not permissible under law as local commissioner cannot determine the question of ownership or possession of the property as the determination of title or possession is a matter of evidence to be adjudicated by the court on the basis of oral and documentary evidence led by the parties and as such local commissioner cannot be appointed to mere collect the evidence for a party. Hence, prayed for dismissal of the application. All other averments have been denied. Hence, prayed for dismissal of the application.

4. As per averments of the present application, there is main dispute of the applicant-defendants No.4 to 6 with regard to the property

of plaintiff, hence there is no need to seek reply from the remaining appearing respondents/defendants.

5. I have heard the submissions made by learned counsel for the parties and have perused the material on the record very carefully.

6. Perusal of the case file it transpires that plaintiff has filed main suit for permanent injunction restraining the defendants from anyway interfering, encroaching upon, or causing any damages to the boundary wall and forcibly dispossessing the plaintiff from the suit property bearing khewat no.28, khatoni no.46, khasra no.51 (0-17) or as mentioned in the head note of the plaint.

7. On the other hand, it is the case of the defendants that defendant No.6 Angrej Singh has instituted a civil suit against Jyoti Bhatia & Ors for permanent injunction restraining the defendants and on 09.02.2026, the court has ordered that the defendants Jyoti Bala & Ors are restrained from interfering in peaceful possession of the said defendant No.6 over the suit land mentioned in the head note of the plaint and marked as ABCDEFGHIJKL in the site plan and further order that the defendants are at liberty to construct over the area which is in their possession upto the extent of 73 feet i.e. I to M. However, even passing the restraining order, the defendant of that suit Jyoti Bhatia continuously threatened the respondents to interfere into their possession and even started raising illegal construction of her house more than her share. Hence, the replying defendants are the owners of adjoining land of the

plaintiff and the plaintiff is trying to illegally encroach upon the property of replying defendants under the garb of restraining order dated 14.10.2025.

8. However, by way of present application, present applicants-defendants No.4 to 6 have sought the appointment of local commissioner in order to get actual and factual position of the spot and further making report regarding the dimensions of the constructed area of the property of the plaintiff.

9. The object of appointing Local Commissioner is to elucidate any matter in dispute and for the proper adjudication of dispute between the parties. Although, the court cannot act as evidence collected by appointing local Commissioner but at the same time there is no embargo on the court to appoint a local Commissioner when the situation so demands. The present suit has been filed by the plaintiff for permanent injunction on the ground that defendants be restraining from interfering, encroaching upon or causing any damages to the boundary wall and forcibly dispossessing the plaintiff from the suit property comprised khasra no.51 measuring 17 marlas. While the applicants-defendants No.4 to 6 have denied such facts and pleaded that in the garb of restrained order dated 14.10.2025 passed by this court, the plaintiff is trying to threatening the defendants and started interfering in their possession.

10. The onus to prove that the respondent-plaintiff has raised any such construction more than her share is on the applicants-defendants which they have to be proved by leading cogent and convincing evidence and merely on the basis that the plaintiff is raising construction of her house more than her share, the local Commissioner cannot be appointed by the Court. More over, it is settled principle of law that no Local Commissioner can be appointed to collect the evidence on behalf of either party, especially possession of any party over any part of the suit property or area of any alleged construction cannot be ascertained by the appointment of Local Commissioner. Moreover, it is for the parties to the suit to prove their respective case by way of proving documentary as well as examining oral evidence.

11. Thus, in view of discussion made here in above, the present application under Order 26 Rule 9 CPC filed by applicants-defendants No.4 to 6 for appointment of local commissioner for the purpose for which the application has been moved, is hereby **dismissed**.

However, nothing herein observed would amount to comments on the merits of the case.

**Pronounced in the Open Court.
Dated : 08.04.2026**

**Aasdeep Singh, PCS
Civil Judge (Junior Division),
Pathankot. (UID No.PB00790).**

*Pkr.
Stenographer.*

*Aasdeep Singh, PCS,
Civil Judge (Junior Division), Pathankot (UID No.PB00790).*